

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

BRIAN ZALEWSKI,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. CIV-2021-798-JD
	)	
THE CITY OF CHICKASHA,	)	
Oklahoma, a municipal corporation,	)	Jury Trial Demanded
	)	
Defendant.	)	

**AMENDED COMPLAINT**

**COMES NOW THE PLAINTIFF** and, pursuant to FRCP 15(a)(1)(B), offers the following amended Complaint:

1. The Plaintiff is Brian Zalewski, an adult resident of Grady County, Oklahoma.
2. The Defendant is the City of Chickasha, Oklahoma, a municipal corporation located in Grady County, Oklahoma.
3. Brian Zalewski was the Fire Chief of the City of Chickasha and head of the Emergency Services until his wrongful termination by the then City Manager. Such wrongful termination occurred on or about August 25, 2020.
4. The City, acting through its former City Manager, terminated the employment of the Plaintiff in retaliation for Plaintiff's exercise of free speech rights under the First Amendment under Oklahoma's guarantee of free speech in Art II, § 22 of the Oklahoma Constitution.
5. In particular, Plaintiff engaged in protected speech and expression by the following actions and was fired in retaliation for such actions:
  - A. Lawfully recording conversations with the former City Manager in which the City Manager expressed his intention to cut emergency

services for the City and to reduce the level of fire protection. These matters were of public and political importance to the citizens of the community. The Plaintiff, acting in his capacity as citizen and not in the course of any official duties, shared such recorded conversations with citizens of Chickasha.

- B. Directly communicating with City Council members of the City of Chickasha regarding budget issues. The budget issues involved the proper operation of the Fire Department and emergency services and were matters of public and political importance to citizens of Chickasha. Such communications were made in Plaintiff's capacity as a citizen and not as an employee as the then City Manager had directed the Plaintiff to not communicate such information to City Council members.
  - C. Refusing to support and for expressing his opposition to a plan to close a municipal fire station and to eliminate municipal EMS services. These were matters of public and political importance to the citizens of Chickasha. In taking such actions, the Plaintiff was not acting as an employee but as a citizen because he was defying the directive given to him by the then City Manager.
6. As the direct result of such actions, the Plaintiff was fired from his employment and suffered injuries in the form of lost earnings which loss is continuing into the future together with dignitary harms which includes humiliation, anxiety and other similar unpleasant emotions for which the Plaintiff seeks compensation in the form of damages.

7. Termination for violation of the Plaintiff rights of free speech is a violation of the First Amendment of the United States Constitution made actionable through 42 U.S.C. § 1983.
8. Plaintiff's termination did not meet the requires of a "for cause" termination and further, termination for violation of the Plaintiff rights of free speech under the Oklahoma Constitution is contrary to Oklahoma's public policy and is actionable as a breach of the implied covenant of good faith and fair dealing present in all contracts other than those for at-will employment.
9. Plaintiff submitted a tort claim notice under the Oklahoma Governmental Tort Claims Act which was received by the Defendant on January 14, 2021.
10. Defendant denied Plaintiff's tort claim on or about January 25, 2021, which denial was received thereafter.
11. This action is timely filed within one hundred and eighty (180) days of both the date of denial and the receipt of such denial.

**WHEREFORE**, Plaintiff prays that judgment be entered in his favor and against the Defendant for the claims asserted in this action together with costs and attorney's fees.

Respectfully submitted this 14<sup>th</sup> day of September, 2021.

S/Mark Hammons  
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JURY TRIAL DEMANDED

**CERTIFICATE OF SERVICE**

The following instrument was filed and served by means of this Court's ECF system of filing an service on this 14<sup>th</sup> day of September, 2021, to opposing counsel below listed:

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s/Mark Hammons